

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF WILLIAM F.) APPEAL NO. 07-A-2634
GRAEBER from the decision of the Board of) FINAL DECISION
Equalization of Valley County for tax year 2007.) AND ORDER

VACANT LAND APPEAL

THIS MATTER came on for hearing February 6, 2008, in Cascade, before Hearing Officer Travis VanLith. Board Members Lyle R. Cobbs, Linda S. Pike, and David E. Kinghorn participated in this decision. Appellant William F. Graeber appeared. Assessor Karen Campbell, Chief Deputy Assessor Deedee Gossi, and Appraiser June Fulmer appeared for Respondent Valley County. This appeal is taken from a decision of the Valley County Board of Equalization (BOE) modifying the protest of the valuation for taxing purposes of property described as Parcel No. RPM02220000390A.

The issue on appeal is the market value of a vacant residential lot.

The decision of the Valley County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$68,740. Appellant requests subject's land value be reduced to an amount somewhere between \$0 and \$20,000.

Subject is a .274 acre unimproved residential lot located in a McCall subdivision. The parcel sits near the bottom of a sloped hill and does not have sewer access. Subject is within 200 feet of the local river.

Subject's original assessment was \$83,970, which was reduced at BOE to the current \$68,740 value.

Appellant explained subject was unbuildable because it did not have sewer access. Appellant referenced several failed attempts by the city to correct the sewer situation. Also noted

was an attempt made a couple years ago by the residents of similarly-encumbered lots in subject's subdivision to form a Local Improvement District (LID), with the goal to install a sewer system. Because the encumbered parcels sit at or near the bottom of a sloped hill, a unique and expensive sewer system would be required; one that could pump sewage uphill to the main city line located at the top of the hill. The cost per owner in the subdivision was estimated to be \$60,000 or more. As such, the residents of the subdivision voted to defeat the formation of an LID.

Appellant further noted city ordinances prohibited camping on subject because the lot sits inside city limits. Appellant reasoned this fact, in addition to subject's sewer restrictions rendered the property valueless.

Respondent first noted the downward adjustments applied to account for subject's deficiencies. Respondent testified all lots in the county lacking sewer access were given a 50% reduction in value. Subject was given an additional 15% downward adjustment because of topography.

Respondent presented three (3) bare land sales in subject's immediate area. The lots were roughly the same size as subject, however, none had sanitary restrictions. The sales occurred during 2005 and 2006 for prices between \$100,000 and \$175,000.

Respondent also referenced two lot sales located in the same section of the subdivision as subject. The sales involved lots somewhat larger than subject that sold for \$60,000 and \$69,000 respectively. The lots had the same sanitary restrictions as subject. Because the sales occurred in 1998 and 2003, they were not used to evaluate subject.

Sometime prior to hearing, Respondent visited the subject property. Respondent noted subject's steep slope and concluded a great deal of costly excavation and engineering would

need to be done if a structure were to be built on the parcel. As such, Respondent offered to reduce subject's assessment by an additional 50%, or \$34,370.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

All property in Idaho is taxable unless specifically exempted by statute. *See Idaho Code §63-601*. Subject does not qualify for any of the enumerated exemptions, therefore, it is subject to assessment and taxation.

For the purposes of property taxation, Idaho uses a market value approach as defined by Idaho Code § 63-201(10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The Idaho Supreme Court has recognized three (3) approaches to determine market value;

[T]here are three primary methods of determining market value: the cost approach, in which the value as determined by new cost or market comparison is estimated and reduced by accrued depreciation; the income approach, applicable to “income producing property” in which a capitalization rate is determined from market conditions and applied to net income from the property to determine appraised value; and the market data (comparison method) approach, in which value of the assessed property is ascertained by looking to current open market sales of similar property. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979).

Respondent used the market data approach to value subject and presented three (3) bare lot sales to that end. The obvious problem here is the sale properties were admittedly not similar to subject because the lots did not have sanitary restrictions (i.e. they were buildable lots).

Appellant, on the other hand, did not present any sales information for the Board to consider. Appellant's argument rested on the fact that the sanitary restrictions rendered subject unbuildable. Subject's use is further restricted by city ordinances prohibiting camping within city limits.

It is hard to argue with Appellant's position that subject is essentially useless as a result of various restrictions. On the other hand, Appellant's assertion that subject is worth \$0, is unsupportable. Idaho Code requires property be assessed at market value unless specifically exempted by statute. While subject is certainly not worth as much as unrestricted property, it simply must have some value. After inspecting subject and noting numerous defects, Respondent recommended the value be reduced to \$34,370. That amount was determined by examining sales in subject's immediate area and applying reductions to account for subject's obvious deficiencies. In other words, Respondent used the market data approach and applied downward adjustments to make subject as nearly similar to the reported sales as possible. The Board finds Respondent's recommendation reasonable and supported by the record. As such, the decision of the Valley County Board of Equalization is modified to reflect a total value of \$34,370.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED the decision of the Valley County Board of Equalization concerning the subject parcel be, and the same hereby is modified to reflect a decrease in subject's assessment to \$34,370.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED March 20, 2008